

UPPER SOUTH EAST COMMUNITIES COALITION, INC

**2780 Fairwood Drive
Reno, Nevada 89502
(775)232-0122
direct: klrhode.re@sbcglobal.net
www.itsnotadonedeal.org**

March 23, 2015

Regional Administrator
United States Environmental Protection Agency
Region IX
Superfund Division
75 Hawthorn Street
San Francisco, California 94105

Dear Regional Administrator,

Under the authority of CERCLA Section 105(d), as amended, the petitioner, Upper South East Communities Coalition, Inc. 2780 Fairwood Drive, Reno, Nevada 89502, (775) 232-0122, hereby requests that Region IX conduct a preliminary assessment of the **THREATENED IMMINENT RELEASE** of a hazardous substance, pollutant, or contaminant at the following locations:

The request for preliminary assessment pertains to the known hazards concentrated at sites on the Butler Ranches North and South which are located in Reno, Nevada along the Steamboat Creek between Mira Loma Drive and South Meadows Parkway. (please see attached methylmercury sites) These locations are in extremely close proximity to Steamboat Creek (in fact the creek runs through these properties) which is the only tributary of the High Risk Zone site of Washoe Lake. Tests for mercury levels at these sites range from 100 mg/kg to over 500 mg/kg.

Petitioner is affected by the *IMMINENT THREATENED RELEASE* because:

The Upper South East Communities Coalition, Inc, which is a non-profit, 501 c3, community organization for environmental preservation, represents almost 3000 stakeholders that surround the affected area. Homes and a school are in the immediate area and there are extreme concerns on the plan to excavate, store and eventually place as fill, mercury; for a regional road that is to be built as a "floodable" road in a federally and locally designated flood storage area, and, that is in a FEMA Special Flood Hazard Zone.

Type or characteristics of the substance(s) involved:

The types of hazardous substances involved vary. The biggest concern is the existing **methymercury** and the elemental mercury in danger of **methylation**. But also included, and which are not being addressed, are arsenic, lead, boron, iron, zinc and phosphorous from historic mining upstream on Steamboat Creek. (please see attached methymercury maps)

Nature and history of any activities that have occurred regarding the IMMENENT THREATENED RELEASE:

On July 19, 2013, the Regional Transportation Commission of Washoe County (RTC) submitted their *second* Clean Water 404b Permit Application for impacts to Waters of the U.S. (Steamboat Creek) to build a regional road called the Southeast Connector. The first permit was pulled due to the plan to realign Steamboat Creek and its detrimental environmental impacts.

Since 2013, our Coalition has been asking the Army Corps of Engineers for an Environmental Impact Statement (EIS) for this project, and have not had any responses or indications that this request will be granted. We are submitting this petition in the hopes that the EPA would do an assessment of the impacts of excavating, storing and eventual projected use as fill under a “floodable” road of soil contaminated with methymercury. The Army Corps of Engineers has granted RTC incremental approvals for a project that should have been evaluated in its entirety through an Environmental Impact Statement (EIS). A determination for the Clean Water 404b permit is expected shortly.

State and local authorities you have contacted about the IMMENENT THREATENED RELEASE and responses:

U.S. Army Corps of Engineers – limited answers to direct questions - No Response on EIS, no response on Executive Order 11988, no response on repeated requests for public hearing.

U.S. Environmental Protection Agency – limited discussion – no response on EIS

Pyramid Lake Paiute Tribe – limited contact, discussion on mercury and flooding

Nevada Division of Environmental Protection – limited discussion – no response on EIS

U.S. Department of Fish and Wildlife – No Response to requests for FOIA or EIS

Nevada Department of Fish and Wildlife – limited contact for direct questions – No additional responses.

Regional Transportation Commission of Washoe County - responded for public documents only and for direct questions – No responses for EIS.

City of Reno, Nevada – Due to nature of federal jurisdictions, limited help. In process of trying to get a resolution passed requesting EIS from Corps.

Reno City Planning Commission – limited contact. No help.

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Please review this petition as soon as possible. As stated above, this project is to have a determination from the Army Corps of Engineers at any moment. Public concerns have not been addressed in any public forum and the public has been left out of the review process. Leading agency on the review of the project for the handling and use of the mercury has been left, in majority, to the Nevada Division of Environmental Protection (NDEP) which is comparing this site to the EPA's Carson River Mercury Site.

The Coalition finds this very concerning as the only comparable aspects to these projects is the presence of mercury and burying it.

The sites differ in that the CRMS hazardous mercury was buried under either flat ground or in canyon like areas at grade, where the SEC site is going to have the mercury buried under an *above ground berm* that is being promoted as "floodable". The CRMS site had some residents removed and buildings leveled and clean fill brought in, the SEC has no plans to mitigate in that way. Even the houses and one school that are closest (within 2500 feet) of one of the heaviest mercury sites that is to be bulldozed; and have the dirt material "stored" above ground until it can be "sequestered" under the dirt berm, have not been considered. The CRMS is an ongoing work in progress with studies and investigations by the Environmental Protection Agency (EPA) beginning in 1991 and is expected to continue until at least though 2015. The SEC has had all technical memo's on the mercury contamination located on the project site written by companies that are being paid by the applicant and then cursorily studied by EPA, who left the majority of the decision making to the State of Nevada Division of Environmental Protection.

The CRMS had a portion of the hazardous material removed and transported to a landfill and then another portion removed from the site and transported out of state to a thermal treatment facility. Clean fill was then brought in. The SEC site, according to the Permit Application, is to bury all contaminated material onsite.

The CRMS was deemed a hazardous site due to concentrations of mercury that were above an 80 mg/kg threshold. The SEC has several sites where the mercury concentrations are way above the 80 mg/kg threshold used for CRMS. According to the RTC's November 2011 Site Characterization Report, sites on the North Butler Ranch; at 0-5 inches – cross section T18 is 150 mg/kg; T24 is 120 mg/kg, and at 5 inches to 2 feet T18 is 110 mg/kg; T19 is 150 mg/kg and T21 is 180 mg/kg. On the Butler Ranch South; at 0-5 inches – T9 is 570 mg/kg, and at 5 inches to 2 feet, T-8 is 140 mg/kg and T10 is 360 mg/kg. Since the CRMS was deemed hazardous on the levels of above 80 mg/kg, the SEC project site should also be deemed hazardous.

The Coalition has had no indication through our FOIA requests that the RTC would be required to, or has complied with, the federal Resource Conservation and Recovery Act (RSRA). Section 261.3 of RCRA's implementing regulations designates mercury as a "hazardous waste." RTC must obtain a permit from the Environmental Protection Agency (EPA) or the Nevada Department of Environmental Protection (NDEP) to deposit contaminated soil anywhere within

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or outside of the Project site. RTC does not indicate in its Permit Application its intent to obtain a permit to deposit hazardous waste or to otherwise comply with RCRA.

RTC is building a hazardous waste landfill and will then leave the care of that landfill to the City of Reno, and its budgeting constraints, for maintenance of this "landfill" in perpetuity.

We will await your response.

Thank you,

Kimberly Rhodemyre, Chair
Upper South East Communities Coalition, Inc.

Board of Directors:

Wayne Sievers, Vice-Chair
Yvonne Nordmeyer, Secretary
Richard Odyanski, Treasurer
Douglas Wachholz, Director
Eric Cole, Director
John Saludes, Director

cc.

Winter King, Shute Mihaly and Weinberger
Coalition Attorney
Joseph Petta, Shute Mihaly and Weinberger
Coalition Attorney

methy/mercury sites

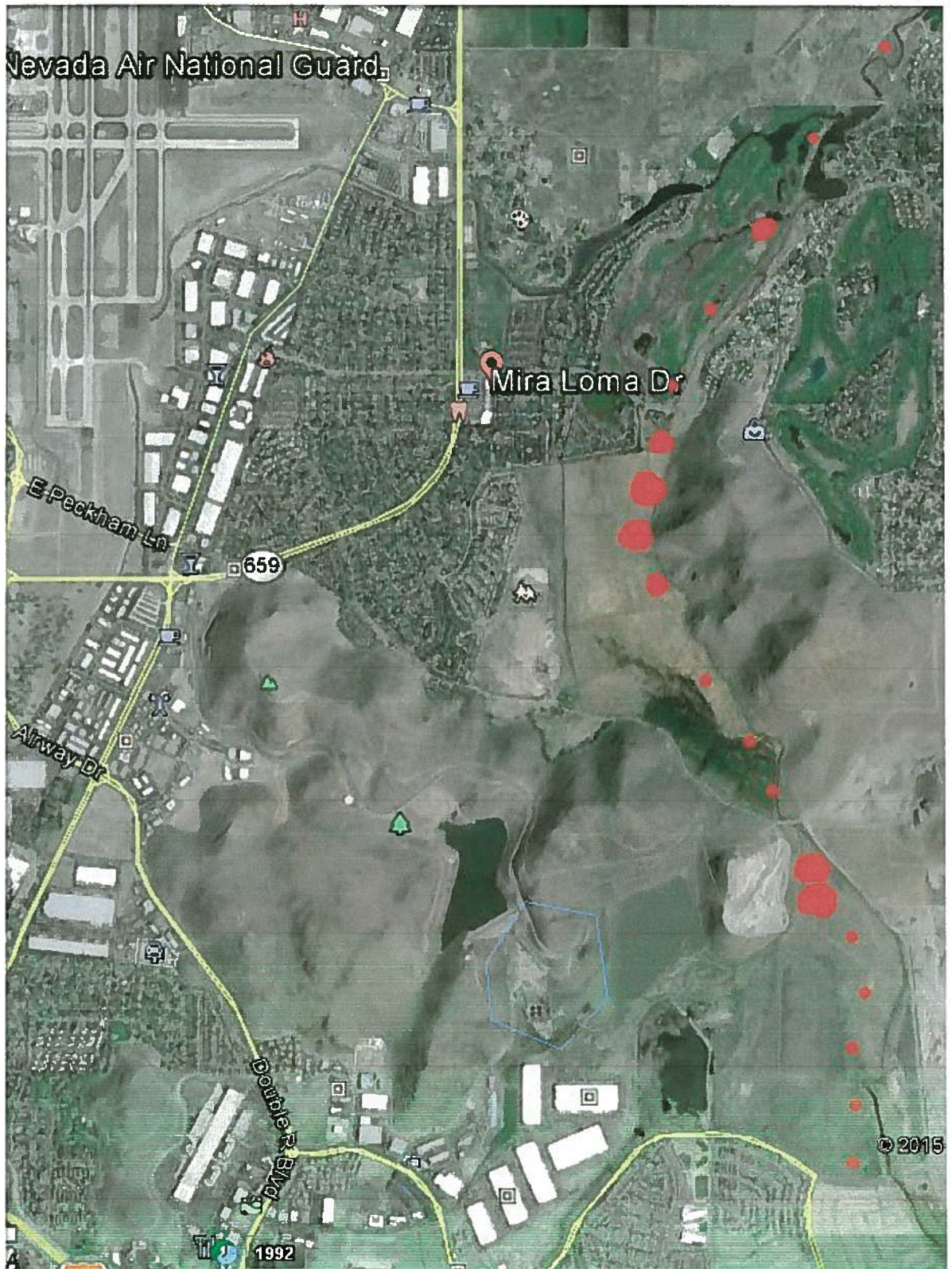


TABLE 1
2011 Soil Analytical Results - Total Mercury
SouthEast Connector
Washoe County, Nevada

Reach	Sample Date	Transect	Total Mercury (mg/kg)					
			Steamboat Creek Bank ¹	Creek Restoration/Realignment ²			SEC Alignment ³	
				0 - 0.5'	0.5'-5'	5' -10'	0 - 0.5'	0.5'-2'
South Butler Ranch	6/20/2011	T1	0.10	0.90	0.18	0.063	45	7.6
	6/20/2011	T2	0.14	0.84	0.22	0.063	4.8	19
	6/20/2011	T3	0.059	0.72	0.21	0.098	9.0	1.9
	6/20/2011	T4	0.51	2.6	0.073	0.16	2.2	3.3
	6/21/2011	T5	1.1	28/17	47	1.8	48	32
	6/21/2011	T6	0.09	36	13	0.16/0.13	12	50
	6/21/2011	T7	0.19	36	8.5	0.21	23	5.1
	6/21/2011	T8	0.18	4.4/31	370	0.36	17	140
	6/21/2011	T9	2.6	16	96	0.31	570	61
	6/21/2011	T10	1.1	370	0.26	0.19	14	360
	6/21/2011	T11	1.1	110	1.7	--	21	32
	6/21/2011	T12	1.4/1.4	5.4	9.5	0.33/0.38	1.6	1.6
	Mean Concentration		0.71	53.12	45.55	0.34	63.97	59.46
North Butler Ranch	6/21/2011	T13	1.6	16	0.48	0.23/0.28	3.2	0.59
	6/22/2011	T14	1.6	6.0	6.1	0.19	2.9	0.15
	6/22/2011	T15	12	8.1	5.3	0.55	--	--
	6/22/2011	T16	1.4	31	23	0.19	6.0/6.0	24
	6/22/2011	T17	58	69	10	0.32	22	59
	6/22/2011	T18	6.9	20/43	8.0	1.1	150	110
	6/22/2011	T19	4.7	48	0.69	0.22	56	150
	6/22/2011	T20	4.0	56	41	2.0/43	56	1.0
	6/24/2011	T21	67	160	0.37	0.21	11	180
	6/24/2011	T22	8.8/8.3	56	7.9	0.18	57	37
	6/24/2011	T23	6.8	150	0.6	0.29	43	62
	6/24/2011	T24	6.2	120	2.4	3.2/0.2	120	7.6
	6/24/2011	T25	5.4	41	0.77	0.28	3.3	0.54
	Mean Concentration		14.18	61.85	8.20	3.85	44.20	52.66

